HON'BLE MR. JUSTICE BILAL NAZKI

AND

HON'BLE MR. JUSTICE S.ANANDA REDDY

W.A.NO. 2353 OF 2005

Dt. 24.1.2006

Between:

Ramya Subhashini,

…Appellant

and

B.Harshitha and others

…Respondents

HON'BLE MR. JUSTICE BILAL NAZKI

AND

HON'BLE MR. JUSTICE S.ANANDA REDDY

W.A.NO. 2353 OF 2005

JUDGMENT: (Per Hon'ble Mr. Justice Bilal Nazki)

Three writ petitions were filed being WP Nos. 17172, 16995 and 17455 of 2005 challenging the action of respondents-N.T.R. University of Health Sciences, and the Sports Authority of Andhra Pradesh in not following the procedure contained in G.O.Ms.No. 27, dt. 4.6.2005 in the matter of selection of candidates against the seats reserved for sports category.

W.P.Nos. 16995 and 17455 of 2005 were dismissed by the learned single Judge and W.P.No. 17172 of 2005 was allowed. The order of learned single Judge passed in W.P.No. 17172 of 2005 is challenged in this writ appeal. The parties shall be referred to as they appear in the writ petition.

In this writ petition the selection of 7th respondent to first year MBBS course was held to be illegal and untenable. A direction was given that the seat occupied by the 7th respondent be allotted to the writ petitioner. The writ petitioner was pursuing the course of BDS. It

was directed that this seat shall be made available to the 7th respondent. The 7th respondent in W.P.No. 17172 of 2005 has challenged this order in this appeal.

Admissions to the first year MBBS and BDS are made in the State of Andhra Pradesh through a process of centralized counseling by the University and the candidates are selected on the basis of their performance in the common entrance examination. Reservations are provided for various categories including sports category. The University provides for reservation of 0.5% of seats in favour of candidates who have excelled in the games and sports. The rank of the writ petitioner was 13340. She was not selected during the general counseling. She claimed a seat in sports category and she was selected for BDS course in Osmania University area. The crux of the argument is that the 7th respondent was a local candidate of Andhra University area, she was wrongly admitted against the seat in Osmania University area and on that account the petitioner was denied the seat in the first year of MBBS course. It was stated in the writ petition that as per the notification issued by 2nd respondent inviting counseling for admission to MBBS and BDS for sports category, the petitioner was called on 29.7.2005 at 8.30 A.M. at NTR University of Health, Sciences, Vijayawada. On the same day around 2.00 P.M. the 2nd respondent displayed the list of eligible and non-eligible candidates under the sports category on the notice board. According to the petitioner, she fell under category H (F) Senior Serial No.27. There was only one eligible candidate in Osmania University area in Sl.No. 24 and all others were in different priority in the list displayed, but after some time the concerned authorities of the 2nd respondent corrected the list. Even as per the corrected list there were only about 3 candidates ahead in priority ranking above the petitioner's priority in Osmania University area. At about 5.00 A.M. on 30.7.2005 a second list was displayed again in which the petitioner was placed at 5th position in Osmania University quota and according to the priority of EAMCET ranking, the petitioner

was pushed from 4th to 5th position in Osmania University quota. The authorities informed the petitioner that the changes were made in accordance with G.O.Ms.No. 27. Thereafter the counseling started. At about 7.00 A.M. the petitioner was called for counseling, she was told that she stood 9th position in Osmania University quota. She made enquiries as to how she could fall from 5th to 9th position, when the authorities informed her that the changes were made as per the rules of selection and as the priority was given to individual events over team events. Admission was denied to the petitioner for MBBS course, but she was selected for BDS course.

The only argument advanced before us was that the 7th respondent was a local candidate of Andhra University area and she was wrongly admitted against the seat in Osmania University and on that account the petitioner was denied the seat in the first year of MBBS. This was not pleaded in the writ petition, but an additional affidavit was filed by the petitioner in which the following para was added,

> "It is further submitted that, the factual position is that the respondents did not give any proper explanation as to why Ms. Ramya Subhashini was transferred to O.U., in the third list, when she was placed in A.U., in 1st and 2nd list. Also the petitioner has asked for explanation, as to why the priorities of Ms. Asna Zain and Ms. Soumya Sri were changed from 27th priority to 25th priority."

In the counter filed on behalf of 3rd respondent to the additional affidavit, it is stated that Ms. Ramya Subhashini-7th respondent made an application seeking seat in Andhra University area. However, at the time of counseling on 29.7.2005 the Admissions Committee, after scrutinizing her application, found that she does not belong to Andhra University area and she belongs to Osmania University area. The Admissions Committee had taken into account her study particulars, which are as follows,

Sl.No.	Class	Year of study	School/college
1.	3rd to 6th class	1995-96 to 1998-99	Bharath High School, Ramavaram, Kothagudem, Khammam Dist.
2.	7th to 8th Class	1999-2000 to 2000-2001	Paniniya Mahavidyalaya Public School, Dilsuknagar, Hyderabad.
3.	10th class	Appear privately in March, 2002	Bishop Hazaraiah High School for Girls, Vijayawada.
4.	Intermediate	2002-03 to 2003-04	S.K.V.S. Junior College, Poranki, Vijayawada.

It is stated that as per the Presidential Order, if a candidate studies in educational institutions in the State for a period of not less than 7 consecutive academic years ending with the academic year in which he/she appeared or, as the case may be, first appeared for the relevant qualifying examination, he/she shall be regarded as a local candidate in relation to that local area, where he/she had studied for the longest period out of the said period of 7 years. The chart shows that the 7th respondent had not studied 9th class in any school and she admitted in 10th class immediately after 8th class. It further shows that in the last 7 consecutive academic years preceding the qualifying examination, she had studied for four years in Osmania University area. Therefore the admission of 7th respondent in Osmania University area was legal. It is not in dispute that the 7th respondent belongs to Osmania University, the only dispute that has been raised was that she mentioned in her application that she

belongs to Andhra University. This found favour with the learned single Judge. He also found from the record that the 7th respondent had studied 7th and 8th classes in Dilsuknagar, Hyderabad, but she had obtained study certificate on 30.7.2005 after counseling in the sports category. But the learned single Judge failed to note that in the application form seeking admission, she had clearly mentioned all these facts. She had clearly mentioned that she had studied 7th and 8th classes in Paniniya Mahavidyalaya Public School, Dilsuknagar, Hyderabad. Therefore it was only a mistake that she had claimed that she was a candidate for Andhra University. The law on candidates being local or non-local in terms of presidential order is some times confusing and it was the duty of the University to see whether the 7th respondent could be selected in Andhra University. Had she been selected in Andhra University, her admission would have been challenged on the ground that she did not belong to Andhra University area. She filled up the application form, gave the names of institutions where she had read. It was immaterial whether she had claimed Osmania University or Andhra University because this is something which the persons, who are responsible for scrutinizing the applications, are supposed to do. The learned single Judge has relied on regulations which say that the applications unaccompanied by required certificates or applications with incomplete entries and ineligible applications shall stand rejected automatically. One can understand if some material information has not been given, one can also understand when false information has been given, that admission of the person can be cancelled. In any case the 7th respondent could not be considered for Andhra University area even if she had claimed admission in that area because she was admittedly a candidate belonging to Osmania University. Even otherwise the sessions had started some where in July. The admission of 7th respondent has been cancelled by the judgment of this Court on 15.11.2005. The writ petitioner had also joined her BDS and the 7th respondent had joined MBBS course. By swapping the

seats, both of them will suffer and in our view even the swapping is not permissible in view of the judgment of the Supreme Court reported in *Medical Council of India Vs. Madhu Singh* .

For these reasons, we allow the appeal, set aside the order of the learned single Judge. No costs.

WAMP NO. 1 OF 2006:

In view of the judgment in the writ appeal, no orders are necessary to be passed in this application which is accordingly dismissed.

Dt.24.1.2006 _____

BILAL NAZKI J.

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S.ANANDA REDDY